

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA,

Plaintiff,

:

Case No. 3:08-cr-175

Also 3:11-cv-299

- vs -

District Judge Thomas M. Rose

Magistrate Judge Michael R. Merz

JEREMY LEWIS,

Defendant.

:

MEMORANDUM REGARDING APPEAL

This § 2255 case is before the Court on Defendant's a Notice of Appeal (ECF No. 420) from the Notation Order (ECF No. 419) entered by the undersigned striking Lewis's most recent motion for relief from judgment (ECF No. 418).

In entering the Notation Order, the undersigned was acting in what he understood to be strict obedience to the Order of District Judge Rose of November 18, 2021, that Lewis must seek and obtain leave of court before filing any further motions under Fed.R.Civ.P. 60(b) (ECF No. 388). Lewis neither sought nor obtained leave of court before filing his most recent motion for relief from judgment.

While Lewis cites no basis for his appeal, the undersigned believes he has a right to appeal because Magistrate Judges may enter final orders only in cases where the parties have unanimously consented under 28 U.S.C. § 636(c). This is not such a case. Therefore the Notice of Appeal is

effective to place this matter before District Judge Rose. Judge Rose may wish to consider declaring Lewis a vexatious litigator as District Judge Black has recently done in *Hobbs v. Adult Parole Authority*, Case No. 1:13-cv-00928, at ECF No. 118).

October 2, 2024.

s/ *Michael R. Merz*
United States Magistrate Judge